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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MANSOUR ALIHOSSEINI,

Plaintiff,

v.

GERARD HEINAUER, Director, USCIS
Nebraska Service Center, District Office;
EMILIO T. GONZALEZ, Director, USCIS
U.S. Citizenship and Immigration Services;
MICHAEL CHERTOFF, Secretary,
Department of Homeland Security;
ROBERT S. MUELLER, Director,
Federal Bureau of Investigation;
PETER D. KEISLER, Acting U.S. Attorney
General,

Defendants.

No. C 07-5692 EMC

ANSWER

The Defendants hereby submit their answer to Plaintiff's Complaint for a Writ of Mandamus and Declaratory and Injunctive Relief.

PRELIMINARY STATEMENT

1. Defendants admit the allegations Paragraph One with the exception that the delay is inexplicable.

JURISDICTION

2. Paragraph Two consists of Plaintiff's allegations regarding jurisdiction, to which no

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responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, Defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph Two.

VENUE

3. Paragraph Three consists of Plaintiff's allegations regarding venue, to which no responsive pleading is required.

INTRADISTRICT ASSIGNMENT

4. Paragraph Four consists of Plaintiff's allegations regarding venue, to which no responsive pleading is required.

STANDING

5. Paragraph Five consists of Plaintiff's characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, Defendants deny the allegations in Paragraph.

PLAINTIFF

6. Defendants admit the allegations in Paragraph Six; however, Defendants are without sufficient information to admit or deny Plaintiff's current residence.

DEFENDANTS

7. Defendants admit the allegations in Paragraph Seven.

8. Defendants admit the allegations in Paragraph Eight.

9. Defendants admit the allegations in Paragraph Nine.

10. Defendants admit the allegations in Paragraph Ten.

11. Defendants admit the allegations in Paragraph Eleven.

12. Defendants admit the allegations in Paragraph Twelve.

13. Defendants admit the allegations in Paragraph Thirteen.

FACTS

14. Defendants admit the allegations in Paragraph Fourteen.

15. Defendants admit the allegations in Paragraph Fifteen.

16. Defendants admit the allegations in Paragraph Sixteen.

17. Defendants deny the allegations of illegal delay in Plaintiff's application.

18. Defendants admit the allegation in Paragraph Eighteen; however, Defendants are without sufficient information to admit or deny Plaintiff's city of birth or the numerous inquiries made.

19. Defendants admit the allegations in Paragraph Nineteen.

20. Paragraph Twenty consists of Plaintiff's characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, Defendants deny the allegations in Paragraph Twenty.

21. Paragraph Twenty-One consists of Plaintiff's characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, Defendants deny the allegations in Paragraph Twenty-One.

22. Defendants admit the allegations in Paragraph Twenty-Two; however, Defendants deny Plaintiff has exhausted all his administrative remedies.

23. Defendants are without sufficient information or knowledge to either admit or deny the allegations in Paragraph Twenty-Three.

FIRST CAUSE OF ACTION

24. Defendants incorporates its responses made above as if set forth fully herein.

25. Paragraph Twenty-Five consists of Plaintiff's characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, Defendants deny the allegations in Paragraph Twenty-Five.

SECOND CAUSE OF ACTION

26. Defendants incorporates its responses made above as if set forth fully herein.

27. Paragraph Twenty-Seven consists of Plaintiff's characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, Defendants deny the allegations in Paragraph Twenty-Seven.

28. Paragraph Twenty-Eight consists of Plaintiff's characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, Defendants deny the allegations in Paragraph Twenty-Eight.

29. Paragraph Twenty-Nine consists of Plaintiff's characterization of this action for which no

1 answer is necessary; however, to the extent a response is deemed to be required, Defendants deny
2 the allegations in Paragraph Twenty-Nine.

3 **RELIEF REQUESTED**

4 The remaining paragraphs consists of Plaintiff's prayer for relief, to which no admission or
5 denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny
6 these paragraphs.

7 **FIRST AFFIRMATIVE DEFENSE**

8 ___ Plaintiff's complaint fails to state a claim upon which relief may be granted.

9 **SECOND AFFIRMATIVE DEFENSE**

10 The court should dismiss the Complaint for lack for subject matter jurisdiction.

11 WHEREFORE, Defendants pray for relief as follows:

12 That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's
13 Complaint with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief
14 as it deems just and proper under the circumstances.

15 Dated: January 7, 2008

Respectfully submitted,

16 JOSEPH P. RUSSONIELLO
17 United States Attorney

18 /s/
19 EDWARD A. OLSEN
20 Assistant United States Attorney
21 Attorneys for Defendants
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